

AMENDED IN SENATE AUGUST 17, 2016

AMENDED IN SENATE JUNE 13, 2016

AMENDED IN ASSEMBLY MARCH 30, 2016

AMENDED IN ASSEMBLY MARCH 15, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1926

Introduced by Assembly Member Cooper

February 12, 2016

An act to amend Section 1777.5 of the Labor Code, relating to public works.

LEGISLATIVE COUNSEL'S DIGEST

AB 1926, as amended, Cooper. Public works: prevailing wage: apprentices.

Existing law requires that, except as specified, not less than the general prevailing rate of per diem wages, determined by the Director of Industrial Relations, be paid to workers employed on public works projects. Under existing law, an apprentice employed upon public works is required to be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and to be employed only at the work of the craft or trade to which he or she is registered, as specified.

This bill would require, when a contractor requests the dispatch of an apprentice to perform work on a public works ~~project~~, *project and requires compliance with certain preemployment activities as a condition of employment, as specified*, that the apprentice be paid the prevailing rate for the time spent on ~~a any required preemployment~~

activity, including travel time to and from the activity, if any, *except* as specified.

Because this bill would expand the application of the prevailing wage requirements, the violation of which is a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1777.5 of the Labor Code is amended to
2 read:

3 1777.5. (a) This chapter does not prevent the employment of
4 properly registered apprentices upon public works.

5 (b) (1) Every apprentice employed upon public works shall be
6 paid the prevailing rate of per diem wages for apprentices in the
7 trade to which he or she is registered and shall be employed only
8 at the work of the craft or trade to which he or she is registered.

9 (2) Unless otherwise provided by a collective bargaining
10 agreement, when a contractor requests the dispatch of an apprentice
11 pursuant to this section to perform work on a public works project
12 and requires the apprentice to fill out an application or undergo
13 testing, training, an examination, or other preemployment process
14 as a condition of employment, the apprentice shall be paid for the
15 time spent on the required *preemployment* activity, including travel
16 ~~time~~, *time* to and from the required activity, if any, at the prevailing
17 rate of per diem wages for apprentices in the trade to which he or
18 she is registered. *Unless otherwise provided by a collective*
19 *bargaining agreement, a contractor is not required to compensate*
20 *an apprentice for the time spent on preemployment activities if the*
21 *apprentice is required to take a preemployment drug or alcohol*
22 *test and he or she fails to pass that test.*

23 (c) Only apprentices, as defined in Section 3077, who are in
24 training under apprenticeship standards that have been approved
25 by the Chief of the Division of Apprenticeship Standards and who

1 are parties to written apprentice agreements under Chapter 4
2 (commencing with Section 3070) of Division 3 are eligible to be
3 employed at the apprentice wage rate on public works. The
4 employment and training of each apprentice shall be in accordance
5 with either of the following:

6 (1) The apprenticeship standards and apprentice agreements
7 under which he or she is training.

8 (2) The rules and regulations of the California Apprenticeship
9 Council.

10 (d) If the contractor to whom the contract is awarded by the
11 state or any political subdivision, in performing any of the work
12 under the contract, employs workers in any apprenticeable craft
13 or trade, the contractor shall employ apprentices in at least the
14 ratio set forth in this section and may apply to any apprenticeship
15 program in the craft or trade that can provide apprentices to the
16 site of the public work for a certificate approving the contractor
17 under the apprenticeship standards for the employment and training
18 of apprentices in the area or industry affected. However, the
19 decision of the apprenticeship program to approve or deny a
20 certificate shall be subject to review by the Administrator of
21 Apprenticeship. The apprenticeship program or programs, upon
22 approving the contractor, shall arrange for the dispatch of
23 apprentices to the contractor. A contractor covered by an
24 apprenticeship program's standards shall not be required to submit
25 any additional application in order to include additional public
26 works contracts under that program. "Apprenticeable craft or
27 trade," as used in this section, means a craft or trade determined
28 as an apprenticeable occupation in accordance with rules and
29 regulations prescribed by the California Apprenticeship Council.
30 As used in this section, "contractor" includes any subcontractor
31 under a contractor who performs any public works not excluded
32 by subdivision (o).

33 (e) Before commencing work on a contract for public works,
34 every contractor shall submit contract award information to an
35 applicable apprenticeship program that can supply apprentices to
36 the site of the public work. The information submitted shall include
37 an estimate of journeyman hours to be performed under the
38 contract, the number of apprentices proposed to be employed, and
39 the approximate dates the apprentices would be employed. A copy
40 of this information shall also be submitted to the awarding body,

1 if requested by the awarding body. Within 60 days after concluding
2 work on the contract, each contractor and subcontractor shall
3 submit to the awarding body, if requested, and to the apprenticeship
4 program a verified statement of the journeyman and apprentice
5 hours performed on the contract. The information under this
6 subdivision shall be public. The apprenticeship programs shall
7 retain this information for 12 months.

8 (f) The apprenticeship program supplying apprentices to the
9 area of the site of the public work shall ensure equal employment
10 and affirmative action in apprenticeship for women and minorities.

11 (g) The ratio of work performed by apprentices to journeymen
12 employed in a particular craft or trade on the public work may be
13 no higher than the ratio stipulated in the apprenticeship standards
14 under which the apprenticeship program operates if the contractor
15 agrees to be bound by those standards. However, except as
16 otherwise provided in this section, in no case shall the ratio be less
17 than one hour of apprentice work for every five hours of
18 journeyman work.

19 (h) This ratio of apprentice work to journeyman work shall
20 apply during any day or portion of a day when any journeyman is
21 employed at the jobsite and shall be computed on the basis of the
22 hours worked during the day by journeymen so employed. Any
23 work performed by a journeyman in excess of eight hours per day
24 or 40 hours per week shall not be used to calculate the ratio. The
25 contractor shall employ apprentices for the number of hours
26 computed as above before the end of the contract or, in the case
27 of a subcontractor, before the end of the subcontract. However,
28 the contractor shall endeavor, to the greatest extent possible, to
29 employ apprentices during the same time period that the
30 journeymen in the same craft or trade are employed at the jobsite.
31 When an hourly apprenticeship ratio is not feasible for a particular
32 craft or trade, the Administrator of Apprenticeship, upon
33 application of an apprenticeship program, may order a minimum
34 ratio of not less than one apprentice for each five journeymen in
35 a craft or trade classification.

36 (i) A contractor covered by this section who has agreed to be
37 covered by an apprenticeship program's standards upon the
38 issuance of the approval certificate, or who has been previously
39 approved for an apprenticeship program in the craft or trade, shall
40 employ the number of apprentices or the ratio of apprentices to

1 journeymen stipulated in the applicable apprenticeship standards,
2 but in no event less than the 1-to-5 ratio required by subdivision
3 (g).

4 (j) Upon proper showing by a contractor that he or she employs
5 apprentices in a particular craft or trade in the state on all of his
6 or her contracts on an annual average of not less than one hour of
7 apprentice work for every five hours of labor performed by
8 journeymen, the Administrator of Apprenticeship may grant a
9 certificate exempting the contractor from the 1-to-5 hourly ratio,
10 as set forth in this section for that craft or trade.

11 (k) An apprenticeship program has the discretion to grant to a
12 participating contractor or contractor association a certificate,
13 which shall be subject to the approval of the Administrator of
14 Apprenticeship, exempting the contractor from the 1-to-5 ratio set
15 forth in this section when it finds that any one of the following
16 conditions is met:

17 (1) Unemployment for the previous three-month period in the
18 area exceeds an average of 15 percent.

19 (2) The number of apprentices in training in the area exceeds a
20 ratio of 1 to 5.

21 (3) There is a showing that the apprenticeable craft or trade is
22 replacing at least one-thirtieth of its journeymen annually through
23 apprenticeship training, either on a statewide basis or on a local
24 basis.

25 (4) Assignment of an apprentice to any work performed under
26 a public works contract would create a condition that would
27 jeopardize his or her life or the life, safety, or property of fellow
28 employees or the public at large, or the specific task to which the
29 apprentice is to be assigned is of a nature that training cannot be
30 provided by a journeyman.

31 (l) If an exemption is granted pursuant to subdivision (k) to an
32 organization that represents contractors in a specific trade from
33 the 1-to-5 ratio on a local or statewide basis, the member
34 contractors shall not be required to submit individual applications
35 for approval to local joint apprenticeship committees, if they are
36 already covered by the local apprenticeship standards.

37 (m) (1) A contractor to whom a contract is awarded, who, in
38 performing any of the work under the contract, employs
39 journeymen or apprentices in any apprenticeable craft or trade
40 shall contribute to the California Apprenticeship Council the same

1 amount that the director determines is the prevailing amount of
2 apprenticeship training contributions in the area of the public works
3 site. A contractor may take as a credit for payments to the council
4 any amounts paid by the contractor to an approved apprenticeship
5 program that can supply apprentices to the site of the public works
6 project. The contractor may add the amount of the contributions
7 in computing his or her bid for the contract.

8 (2) At the conclusion of the 2002–03 fiscal year and each fiscal
9 year thereafter, the California Apprenticeship Council shall
10 distribute training contributions received by the council under this
11 subdivision, less the expenses of the Department of Industrial
12 Relations for administering this subdivision, by making grants to
13 approved apprenticeship programs for the purpose of training
14 apprentices. The funds shall be distributed as follows:

15 (A) If there is an approved multiemployer apprenticeship
16 program serving the same craft or trade and geographic area for
17 which the training contributions were made to the council, a grant
18 to that program shall be made.

19 (B) If there are two or more approved multiemployer
20 apprenticeship programs serving the same craft or trade and county
21 for which the training contributions were made to the council, the
22 grant shall be divided among those programs based on the number
23 of apprentices from that county registered in each program.

24 (C) All training contributions not distributed under
25 subparagraphs (A) and (B) shall be used to defray the future
26 expenses of the Department of Industrial Relations for the
27 administration and enforcement of apprenticeship standards and
28 requirements under this code.

29 (3) All training contributions received pursuant to this
30 subdivision shall be deposited in the Apprenticeship Training
31 Contribution Fund, which is hereby created in the State Treasury.
32 Upon appropriation by the Legislature, all moneys in the
33 Apprenticeship Training Contribution Fund shall be used for the
34 purpose of carrying out this subdivision and to pay the expenses
35 of the Department of Industrial Relations.

36 (n) The body awarding the contract shall cause to be inserted
37 in the contract stipulations to effectuate this section. The
38 stipulations shall fix the responsibility of compliance with this
39 section for all apprenticeable occupations with the prime contractor.

1 (o) This section does not apply to contracts of general
2 contractors or to contracts of specialty contractors not bidding for
3 work through a general or prime contractor when the contracts of
4 general contractors or those specialty contractors involve less than
5 thirty thousand dollars (\$30,000).

6 (p) An awarding body that implements an approved labor
7 compliance program in accordance with subdivision (b) of Section
8 1771.5 may, with the approval of the director, assist in the
9 enforcement of this section under the terms and conditions
10 prescribed by the director.

11 SEC. 2. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.